

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

)
DONNA M. TRUSKY, ASHA)
JEFFRIES, GAYNELL COLE) Case No. 2:11-cv-12815
on behalf of themselves)
and all others similarly situated,) HON. SEAN F. COX
)
Plaintiffs,)
vs)
)
GENERAL MOTORS COMPANY)
300 Renaissance Center)
Detroit, MI48243)
)
Defendant.)
)

**STIPULATED ORDER GRANTING PLAINTIFFS' MOTION TO
TRANSFER VENUE TO THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
PURSUANT TO 28 U.S.C. § 1412**

1. This case is before the Court on the stipulation of the parties concerning Plaintiffs' Motion to Transfer Venue To The United States District Court For The Southern District Of New York Pursuant to 28 U.S.C. § 1412 ("Motion to Transfer"). *See* dkt #21.
2. Plaintiffs in this putative class action filed claims against General Motors LLC f/k/a General Motors Company ("New GM"), alleging that New GM breached express warranties with Plaintiffs and the putative class members. *See* Amended Class Action Complaint, dkt #15.
3. New GM filed a Motion to Dismiss arguing, in part, that the claims asserted and the relief sought by Plaintiffs are outside the scope of the warranty terms and impermissibly are premised on conduct of Motors Liquidation Company f/k/a General Motors Corporation ("Old GM"). New GM contends that the claims and relief constitute a violation of the Order of the

United States Bankruptcy Court for the Southern District of New York (“Bankruptcy Court”) pursuant to which New GM acquired its assets and assumed specific liabilities only. *See* Motion to Dismiss, dkt #18. Additionally, New GM contends that the adjudication of the issues noted in this paragraph are within the exclusive jurisdiction of the Bankruptcy Court. Plaintiffs dispute New GM’s position and believe that they properly may pursue their claims and seek relief against New GM and in this Court. The parties’ disagreement constitutes an actual and pending dispute (the “Dispute”).

4. Plaintiffs asserted that it would serve judicial economy for them to petition the Bankruptcy Court, in Case No. 09-50026, and request, *inter alia*, that the Bankruptcy Court address and resolve the Dispute in paragraph 3, above. Consequently, Plaintiffs requested, and New GM agreed, to the entry of an Order staying this action until such time as the Bankruptcy Court resolves the Dispute as noted above or declines to do so (“Stay Order”). This Court entered the Stay Order on November 21, 2012. *See* dkt #20.

5. Plaintiffs later concluded that, in order to seek such relief from the Bankruptcy Court, it is necessary to transfer this case to the United States District Court, Southern District of New York, for ultimate referral to the Bankruptcy Court. On January 17, 2012, Plaintiffs filed their Motion to Transfer. See dkt #21.

6. Although New GM does not agree with all of the assertions of the Plaintiffs offered in support of their Motion to Transfer, New GM does not object to the transfer of this case.

7. New GM hereby withdraws the pending Motion to Dismiss (dkt #18) without prejudice, reserving all rights to answer or otherwise respond to the current Amended Complaint or any amended pleading.

IT IS HEREBY ORDERED:

1. Plaintiffs' Motion to Transfer is **GRANTED**;
2. This case is hereby transferred to the United States District Court, Southern District of New York;
3. New GM's current Motion to Dismiss (dkt #18) is withdrawn without prejudice; and
4. New GM shall have forty-five (45) days to answer or otherwise respond to Plaintiffs' Amended Complaint or any amended pleading after the date this case is transferred to, and docketed with, the District Court in New York.

Dated: February 10, 2012

s/ Sean F. Cox

Sean F. Cox
U. S. District Judge

SO STIPULATED

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